

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:22-cv-631-KDB
(3:20-cr-447-KDB-DCK-1)**

DONTAY LAFON ARMSTRONG,)
)
 Plaintiff,)
)
vs.)
)
UNITED STATES OF AMERICA,)
)
 Defendant.)
_____)

ORDER

THIS MATTER is before the Court on the United States’ Motion to Hold 28 U.S.C. § 2255 Motion in Abeyance. [Doc. 3].

Petitioner filed a *pro se* Section 2255 Motion to Vacate Sentence in the instant case, raising claims of ineffective assistance of counsel and a due process violation. [Doc. 1]. On December 6, 2022, the Court ordered the United States to respond to the Motion to Vacate. [Doc. 2]. The Court instructed the United States to address what effect, if any, two pending appeals have on the Court’s jurisdiction to consider the Motion to Vacate. [Id.].

The United States now asks the Court to hold this matter in abeyance pending the Fourth Circuit’s consideration of Petitioner’s appeal from an Order in the criminal case denying Petitioner’s request for documents, Fourth Cir. Case No. 22-7185, because it may affect the instant proceedings.¹ [Doc. 3]; [see 3:20-cr-447, Docs. 69, 75]. Petitioner has not objected to the Motion and the time to do so has expired.


¹ The United States explains that the second pending appeal, Case No. 22-7006 is an unauthorized second direct appeal.

The Court finds that a stay of these proceedings is in the interest of justice and judicial economy. The Government will be required to file an answer, motion, or other response to the § 2255 Motion to Vacate within 30 days after the Fourth Circuit issues its decision in Case No. 22-7185.

IT IS, THEREFORE, ORDERED that:

1. The United States' Motion to Hold Petitioner's Motion to Vacate in Abeyance [Doc. 3] is **GRANTED**.
2. This case is held in abeyance pending the Fourth Circuit's issuance of a decision Case No. 22-7185. The Government shall have **thirty (30) days** following the Fourth Circuit's issuance of its decision in Case No. 22-7185 to file an answer, motion, or other response to the § 2255 Motion to Vacate.

Signed: February 27, 2023



Kenneth D. Bell
United States District Judge

